

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 17.07.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Habeas Corpus Petition No.499 of 2006

S.Rajendiran

... Petitioner

Vs.

1. State rep.by tis Secretary to Government,
Prohibition and Excise Dept.,
Secretariate, Chennai-9.
2. The District Collector and
District Magistrate
Thiruvannamalai district
Thiruvannamalai

... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to direct the respondents to produce the detenu viz.Arumugham son of Renu Gounder, who is now detained in Central Prison, Vellore in pursuance of the detention order passed by the second respondent on 26.4.2006 in D.O.No.28/2006-C.2 before this Hon'ble Court, call for the records, set aside the order set the detenu forthwith.

For Petitioner : Mr.S.Swamidoss Manokaran

For Respondents : Mr.Babu Muthu Meeran

Addl. Public Prosecutor

O R D E R

(Order of the Court was made by P.Sathasivam, J.)

The petitioner, who is the brother-in-law of the detenu by name Arumugam, who was detained as a "Bootlegger" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 26.4.2006, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there is enormous delay in disposal of the representation of the detenu, which vitiates the ultimate order of detention. With reference to the above claim, learned Additional Public Prosecutor has placed the details, which show that the representation of the detenu dated 4.5.2006 was received by the Government on 9.5.2006. The remarks were called for on 10.5.2006. The said representation was received by the Collectorate from the Government on 12.5.2006 and parawar remarks were called for from sponsoring authority on 12.5.2006 and the remarks were received from sponsoring authority on 17.5.2006. Thereafter, the remarks were received by the Government on 19.5.2006 and the File was submitted on 22.5.2006 and the same was dealt with by the Under Secretary on the same date i.e. on 22.5.2006 and by the Deputy Secretary on 23.5.2006 and finally, the Minister for Prohibition and Excise passed orders on 24.5.2006. The rejection letter was prepared on the same date i.e. on 24.5.2006 and the same was sent to the detenu on 26.5.2006 itself and served to him on 29.5.2006. As rightly pointed out by the learned counsel for the petitioner, though the parawar remarks were called for from sponsoring authority on 12.5.2006, the remarks were received from the sponsoring authority on 17.5.2006 only and there is no explanation at all for taking time for receiving remarks from sponsoring authority till 17.5.2006. In the absence of any explanation by the person concerned even after excluding the intervening holidays, we are of the view that the time taken for receiving the remarks from the sponsoring authority is on the higher side and we hold that the said delay has prejudiced the detenu in disposal of his representation. On this ground, we quash the impugned order of detention.

4. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

ajr

To

1. The Secretary to Government,
Prohibition and Excise Dept.,
Fort St.George, Chennai-9.
2. The District Collector and
District Magistrate
Thiruvannamalai district
Thiruvannamalai
3. The Superintendent,
Central Prison, Vellore
(In duplicate for communication to detenu)
4. The Joint Secretary to Government,
Public (Law and Order)
Fort St. George, Chennai-9.
5. The Public Prosecutor,
High Court, Madras.

HCP. No.499 of 2006

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